

Bureau of Indian Affairs, Interior

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representative to whom the request for a hearing must be submitted;

(e) Advise the applicant or recipient that failure to request a hearing within 20 days of the date of the notice will cause the decision to become final and not subject to appeal under 25 CFR part 2; and

(f) Be delivered to the applicant 20 days in advance of the effective date of the action.

§ 20.605 What happens when an applicant or recipient appeals a decision under this subpart?

If you are an applicant or recipient and appeal a decision made under § 20.604, you can continue to receive your assistance while your appeal is pending. For this to happen, you must submit your appeal by the deadline in § 20.604(e).

§ 20.606 How is an incorrect payment adjusted or recovered?

(a) When an incorrect payment of financial assistance has been made to an individual or family, a proper adjustment or recovery is required.

(b) The proper adjustment or recovery is based upon individual need as appropriate to the circumstances that resulted in an incorrect payment.

(c) Before adjustment or recovery, the recipient will be notified of the proposal to correct the payment and given an informal opportunity to resolve the matter.

(d) If an informal resolution cannot be attained, the recipient must be given a written notice of decision and the procedures of § 20.604 will apply.

(e) If a hearing is requested, the hearing will be conducted in accordance with the procedures under §§ 20.700 through 20.705.

§ 20.607 What happens when applicants or recipients knowingly and willfully provide false or fraudulent information?

Applicants or recipients who knowingly and willfully provide false or fraudulent information are subject to prosecution under 18 U.S.C. § 1001, which carries a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both. The social services worker will prepare a written report detailing the information consid-

ered to be false and submit the report to the Superintendent or his/her designated representative for appropriate investigative action.

Subpart G—Hearings and Appeals

§ 20.700 Can an applicant or recipient appeal the decision of a Bureau official?

Yes, if you are an applicant or recipient, and are dissatisfied with a Bureau decision made under this part, you can request a hearing before the Superintendent or his/her designated representative. You must submit your request by the deadline in § 20.604. The Superintendent or his/her designated representative can extend the deadline if you show good cause.

§ 20.701 Does a recipient receive financial assistance while an appeal is pending?

Yes, if you appeal under this subpart, financial assistance will be continued or reinstated to insure there is no break in financial assistance until the Superintendent or his/her designated representative makes a decision. The Superintendent or his/her designated representative can adjust payments or recover overpayments to conform with his/her decision.

[65 FR 63159, Oct. 20, 2000; 65 FR 76563, Dec. 7, 2000]

§ 20.702 When is an appeal hearing scheduled?

The Superintendent or his/her designated representative must set a date for the hearing within 10 days of the date of request for a hearing and give written notice to the applicant or recipient.

§ 20.703 What must the written notice of hearing include?

The written notice of hearing must include:

(a) The date, time and location of the hearing;

(b) A statement of the facts and issues giving rise to the appeal;

(c) The applicant's or recipient's right to be heard in person, or to be represented by an authorized representative at no expense to the Bureau;

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(d) The applicant or recipient's right to present both oral and written evidence during the hearing;

(e) The applicant's or recipient's right to confront and cross-examine witnesses at the hearing;

(f) The applicant's or recipient's right of one continuance of not more than 10 days with respect to the date of hearing; and

(g) The applicant's or recipient's right to examine and copy, at a reasonable time before the hearing, his/her case record as it relates to the proposed action being contested.

§ 20.704 Who conducts the hearing or appeal of a Bureau decision or action and what is the process?

(a) The Superintendent or his/her designated representative conducts the hearing in an informal but orderly manner, records the hearing, and provides the applicant or recipient with a transcript of the hearing upon request.

(b) The Superintendent or his/her designated representative must render a written decision within 10 days of the completion of the hearing. The written decision must include:

(1) A written statement covering the evidence relied upon and reasons for the decision; and

(2) The applicant's or recipient's right to appeal the Superintendent or his/her designated representative's decision pursuant to 25 CFR part 2 and request Bureau assistance in preparation of the appeal.

§ 20.705 Can an applicant or recipient appeal a tribal decision?

Yes, the applicant or recipient must pursue the appeal process applicable to the Public Law 93-638 contract, Public Law 102-477 grant, or Public Law 103-413 self-governance annual funding agreement. If no appeal process exists, then the applicant or recipient must pursue the appeal through the appropriate tribal forum.

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